

# MICHIGAN SUPREME COURT



## *Office of Public Information*

contact: Marcia McBrien | (313) 972-3219 or (517) 373-0129

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### **ADJUSTING PRISONERS' CHILD SUPPORT IS OBJECT OF FRIEND OF THE COURT BUREAU PROJECT; FEDERAL GRANT TO FUND PROJECT**

LANSING, MI, August 13, 2004 – Prisoners who owe child support may gain better access to child support proceedings, thanks to a \$100,000 federal grant to the Friend of the Court Bureau (FOCB), a division of the State Court Administrative Office.

The grant will fund 69 percent of the total cost of the FOCB's 15-month Prisoner Support Adjustment Project. Eighty percent of the project's funding, which includes the grant, comes from the federal government. The project, which will not receive any funding from non-government sources, will focus on finding prisoners who have child support orders and educating them about their child support rights and responsibilities while in prison. The project will use audio/videoconferencing to allow prisoners to request modifications in child support, and participate in hearings, without being physically present in a courtroom.

FOCB Director Daniel J. Wright credited FOCB Senior Management Analyst William J. Bartels with conceiving of the project and applying for the grant.

Wright said that prisoners "have trouble getting access to child support proceedings. Most parents who are behind bars don't know how to seek a modification in child support, and fewer still would know how to arrange to appear at a hearing. As a result, they accumulate sizable child support arrearages, based on court orders that went into place when they were working and not imprisoned. Not surprisingly, many prisoners can't keep up with their payments and fall behind. And, with the passage of time, the amount owed grows even larger because of the 8 percent annual surcharge penalty."

When prisoners are released, many find themselves burdened by child support arrearages "that, for all practical purposes, are impossible for them to repay," Wright said. "Faced with that burden, a number of ex-prisoners run from the child support system – and worse, become further alienated from their children.

"Our goal is to give prisoners the means to seek and participate in child support modification proceedings on a timely basis. When this project succeeds, released prisoners will not find themselves burdened with impossible arrearages, and are more likely to pay *future* support and to involve themselves in their children's lives," Wright said.

The project will use current audio and videoconferencing technology in Michigan's trial courts. At hearings, judges can set support amounts based on the prisoner's assets and ability to pay. In addition to modifying existing support orders, the project will also include prospective support orders that will go into effect upon a prisoner's release.

Wright emphasized that the project is a partnership among the FOCB, the courts, the Department of Corrections, and the Family Independence Agency's Office of Child Support.

"We're excited about this project and the grant for a number of reasons, one of which is that we think we'll learn ways to improve access to court proceedings for all litigants," he said. "We also see this project as saving tax dollars: first, by not requiring the Friend of the Court to chase uncollectible debts, and second, by making it possible for prisoners to participate in hearings without the costs -- and security risks -- associated with transporting prisoners to court."

A recent review by the Michigan Office of Child Support shows that 11,826 Michigan prisoners -- one-quarter of Michigan's state prison population -- are obligated to pay child support.

The FOCB grant application states that, through August 31, 2003, prisoner cases had an accrued arrearage of \$329,030,297, or \$27,823 per prisoner. The FOCB estimates that surcharges will increase the arrears by \$27 million. By September 2004, according to the grant application, prisoner arrears will grow from \$329 million to over \$375 million.

The grant application adds that "Upon release, ex-prisoners learn that their debt cannot be retroactively modified. They have a current support obligation to meet and an impossibly large debt to repay. Their situation becomes hopeless. Once the arrearage grows to a certain point, the impossibility of ever paying it off becomes a disincentive for a released prisoner to cooperate and to pay support, and serves as a barrier to reestablishing contact with or to supporting their children."

Prisoner support arrearages also hurt Michigan's child support program by requiring the state to "expend its limited resources pointlessly trying to recover a largely uncollectible debt," the grant application states.

Wright said that the project "is based on a recognition that no good comes from overwhelming parents with arrearages that are impossible for them to pay. Most of the people who fall behind in paying child support are not 'deadbeat,' but 'dead broke.' It's in everyone's interest to come up with child support orders that are based on reality."

A recent change to Michigan law makes it possible for a judge to waive or modify the 8 percent arrearage penalty if the judge finds that the child support payer cannot afford to pay, Wright noted. He said the Legislature "recognized that the penalty creates problems when parents are overwhelmed with arrearages that are impossible to pay.

"The figure that is often quoted is that Michigan has \$8 billion in uncollected child support," said Wright. "We need to recognize that at least \$2 billion of that comes from the 8 percent surcharge. Over time, every state accumulates uncollected child support arrears. Michigan has been collecting child support through the Friends of the Court for 85 years, in contrast to most states, which adopted child support programs in response to federal demands. Michigan is consistently among the top three states in the amount of child support collections, but that fact gets lost when the state's child support arrearage doubles every nine years due to the 8 percent penalty."

FOCB plans to identify prisoners' child support cases for the project this fall, Wright said, and hearings will begin before the end of the year.

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